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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

18 CR 14 (VM)

5 FRANK GIOVINCO,

6 Defendant.

7 -----x

8 New York, N.Y.
9 April 27, 2018
11:30 a.m.

10 Before:

11 HON. VICTOR MARRERO,

12 District Judge

13
14 APPEARANCES

15 GEOFFREY S. BERMAN

Interim United States Attorney for the
Southern District of New York

16 JARED LENOW

17 Assistant United States Attorney

18 JAMES FROCCARO, JR.

Attorney for Defendant

19 AARON GOLDSMITH

20 Attorney for Defendant

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(In open court)

THE COURT: Good morning. This is a proceeding in the matter of United States versus Giovinco, Docket Number 18 CR 0014. Counsel, enter your appearances for the record.

MR. LENOW: Good morning, your Honor, Jared Lenow for the government.

MR. FROCCARO: Good morning, your Honor, James Froccaro for Mr. Giovinco. I apologize for being late. I called your Honor's chambers. There was terrible traffic.

MR. GOLDSMITH: Eric Goldsmith, duty attorney for the day.

THE COURT: The Court scheduled this proceeding in response to a letter to the Court from defense counsel, Mr. Froccaro, dated April 13, 2018 requesting that he be authorized to withdraw representation of Mr. Giovinco and appointment of new counsel for the reasons stated in the letter.

Mr. Froccaro, any changes in circumstances from the date of your letter?

MR. FROCCARO: No, your Honor, there hasn't been.

THE COURT: Mr. Giovinco, your attorney has requested authority to withdraw his representation of you for the reasons indicated. Have you discussed this matter with him?

THE DEFENDANT: Yes, I have.

THE COURT: Is it your request or do you concur in his

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1 request for change of counsel for the reasons indicated?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Thank you. I had requested that the CJA
4 attorney on duty be present to resume representation of
5 Mr. Giovinco and also requested that Mr. Giovinco fill out a
6 financial affidavit indicating that he would be eligible for
7 representation by a CJA attorney. The Court has reviewed that
8 application.

9 Mr. Goldsmith, do you have any conflict or potential
10 conflict that may preclude you from representing Mr. Giovinco
11 in this matter?

12 MR. FROCCARO: I'm not aware of any conflict. I have
13 had an opportunity to speak with the government very briefly,
14 along with Mr. Froccaro and Mr. Giovinco. I am prepared to
15 take over the case, which I understand has a trial marked for
16 September 24.

17 THE COURT: Thank you.

18 Mr. Lenow, does the government have any knowledge of
19 any conflict or potential conflict that Mr. Goldsmith may have
20 in accepting representation of Mr. Giovinco in this matter?

21 MR. LENOW: We do not, Judge.

22 THE COURT: Under the circumstances then, the Court
23 will grant Mr. Froccaro's application and designate
24 Mr. Goldsmith to represent Mr. Giovinco in the matter going
25 forward.

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1 Mr. Goldsmith, of course, any discovery that the
2 government has turned over to Mr. Froccaro should be turned
3 over to you, and you know the schedule.

4 MR. GOLDSMITH: I will note for the record, first,
5 that Mr. Froccaro has provided me his entire file, and also
6 note there appears to be a two terabytes hard drive in it which
7 he expressed contains the discovery in this matter.

8 As I said earlier, I'm aware of the trial schedule,
9 and Mr. Lenow and I agreed to start having some brief
10 conversations to directing me toward a more focused search of
11 the discovery relevant to Mr. Giovinco in this matter so we
12 could have some reasonable plea negotiations over the coming
13 several weeks.

14 Otherwise, as I said, I'm available and will prepare
15 accordingly for the Court's calendar.

16 THE COURT: All right. If there is nothing else, I
17 thank you. Have a good day.

18 MR. LENOW: Thank you, Judge.

19 MR. FROCCARO: Thank you.

20 (Adjourned)
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